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Washington, DC 20548

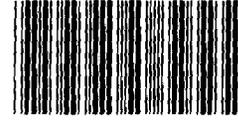
Human Resources
Division

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B-200153

SEPTEMBER 15, 1980

The Honorable Richard S. Schweiker
United States Senate



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Dear Senator Schweiker:

Subject: [Followup on Department of Labor's Actions
on GAO's July 1977 Report on Administration
of the Black Lung Benefits Program]
(HRD-80-111)

This report provides information on the Department of Labor's actions (1) to reduce the backlog of black lung claims and (2) on our July 1977 recommendations to improve administration of the black lung benefits program. ^{1/} Labor, after a slow start, has processed many claims and could eliminate its large backlog by late calendar year 1981. Labor has also acted on our recommendations. As you requested, we did not obtain agency comments on the matters discussed in this report.

We reviewed the legislative history of the Federal Coal Mine Health and Safety Act of 1969 and the 1972 and 1977 amendments; Labor's regulations, policies, procedures, and eligibility criteria; and pertinent documents and case files. We did our work primarily at Labor's national office in Washington, D.C., and its field offices in Greensburg and Johnstown, Pennsylvania.

PROGRAM ADMINISTRATION

The Social Security Administration (SSA) and Labor have both administered the black lung benefits program. Claims filed by a living miner on or before June 30, 1973, claims filed by the survivors of a miner on or before December 31, 1973, and certain survivors' claims filed

^{1/}Report to the Senate Committee on Human Resources, "Program to Pay Black Lung Benefits to Coal Miners and Their Survivors--Improvements Are Needed" (HRD-77-77, July 11, 1977).



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within 6 months of the death of a miner or widow were processed by SSA. Claims filed by a living miner between July 1 and December 31, 1973, and all claims filed after December 31, 1973, are processed by Labor.

REDUCTION OF CLAIMS BACKLOG

Our 1977 report on the black lung benefits program noted that Labor was processing claims slowly and the claims backlog was increasing. To implement the Black Lung Benefits Reform Act of 1977 and to help improve the administration of the black lung benefits program, Labor established a decentralized organization to provide onsite service to new claimants and expedite claims processing. Labor set up 7 district offices and 33 field stations as well as a temporary office to re-review claims that had previously been denied by SSA's re-review under the 1977 act.

Under the act, persons whose claims had been denied had the option of having them re-reviewed by either SSA or Labor. About 59,000 claimants opting for an SSA re-review automatically had their claims re-reviewed by Labor when SSA did not approve their claims.

The claims backlog increased steadily after Labor assumed program responsibility in 1973. For example, in fiscal year 1974 Labor received 36,856 claims but adjudicated only 1,893. In fiscal year 1975, the backlog increased as Labor received 29,820 new claims and adjudicated 20,664. By August 31, 1978, the claims backlog had grown to 217,263. The peak was reached in January 1979, when Labor had 241,332 undecided claims.

The large increase in undecided claims was primarily attributable to the 1977 amendments, which required Labor to re-review, with new eligibility criteria, all previously denied claims. SSA had made eligibility determinations based on evidence on file, whereas during the re-review of claims, Labor used evidence on file and additional medical or other evidence provided by the claimant at the time of re-review.

From June 1979 to March 1980, Labor's backlog declined by almost 67,000 claims, leaving 169,554 claims to be processed. During this 10-month period, the backlog decreased by an average of 6,700 claims per month. However, for the last 5 months of this period, the backlog decreased by an average of 8,317 claims per month.

Based on the average decrease for the last 5 months, we estimate that the backlog could be eliminated by late 1981. The exact date the backlog will be eliminated is difficult to determine because Labor has recently increased its goal for processing claims per claims examiner, while it plans to reduce the staff by fiscal year 1981. The claims processing goal was increased from 10 to 15 per week, and the staff reduction will eliminate 162 positions-- including about 60 claims examiners.

The table on page 4 shows the reduction in Labor's backlog through March 1980 and our estimate for further reductions through December 1980.

ACTIONS TAKEN ON OUR RECOMMENDATIONS

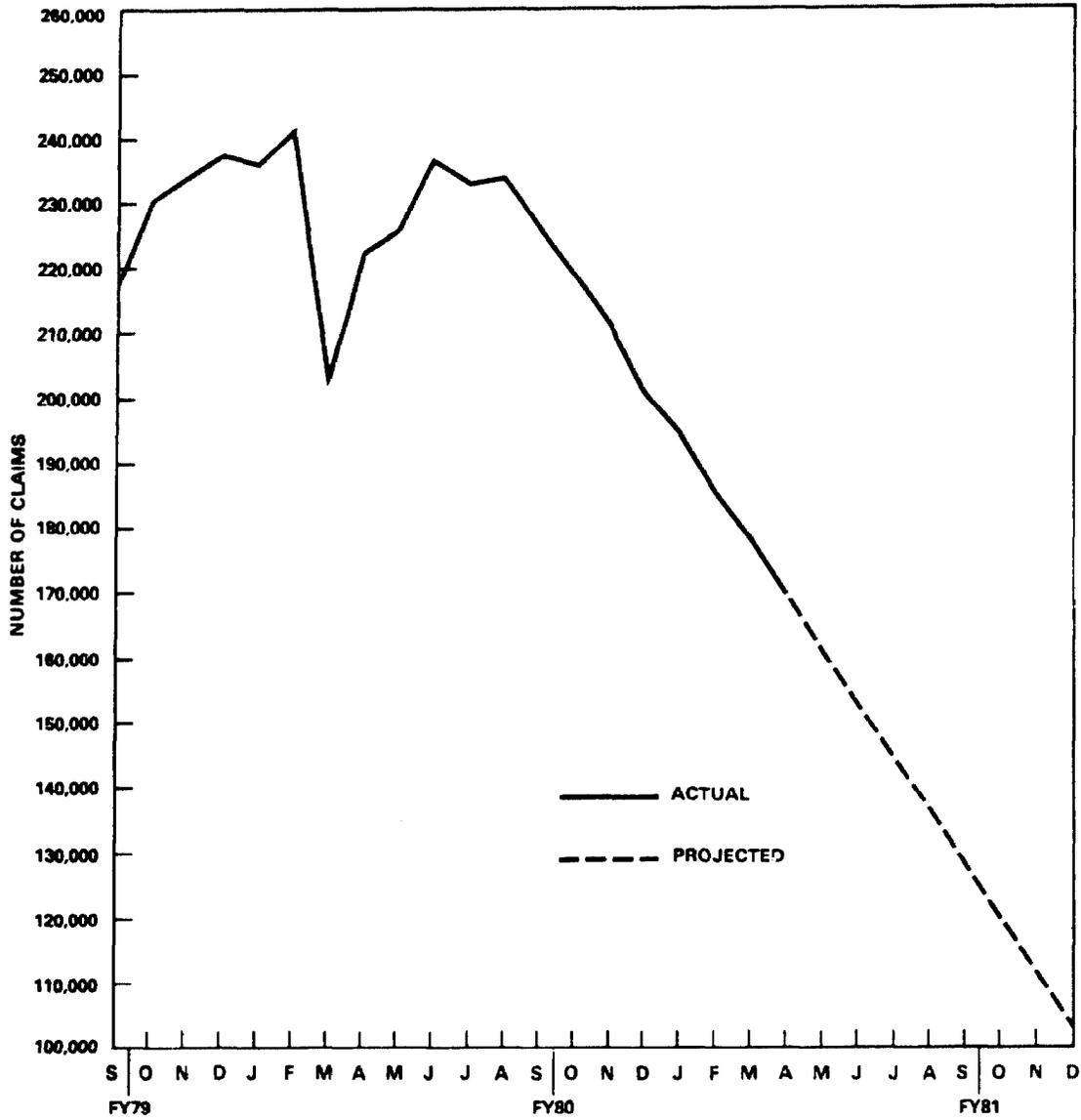
In our 1977 report, we made five recommendations to the Secretary to improve Labor's administration of the black lung benefits program. Labor has acted on our recommendations.

Allocation of resources and staff

We recommended that Labor allocate adequate resources and staff to effectively and efficiently carry out its responsibilities under the act. Labor has allocated enough resources and staff to significantly reduce the large claims backlog. As discussed on page 2, Labor has established a decentralized organization to provide onsite service to new claimants and expedite claims processing. As of March 31, 1980, Labor had 839 employees to administer the black lung program, of which 294 were claims examiners.

A Labor official told us that most of the 162 positions to be eliminated by fiscal year 1981 are at Labor's national office and the temporary office Labor established to re-review claims that were not approved by SSA under the Black

BACKLOG OF CLAIMS



Lung Benefits Reform Act of 1977. We believe the staff reduction should have only a minor impact on eliminating the remaining backlog because, according to Labor, only about 60 claims examiner positions will be eliminated. Most of these positions are term positions (positions with a fixed-employment period) or are already vacant.

Claims processing procedures

We recommended that Labor review and revise its claims processing procedures to reduce the delays between processing steps. Labor has taken several actions to expedite claims processing and reduce the claims backlog awaiting initial decisions. One action was issuing the "Black Lung Resource Book" to each claims examiner and the "Black Lung Benefits Program Manual" to each district office to help adjudicate claims. The program manual was recently revised (in February 1980), and it will be issued to each claims examiner. Labor has also provided training to each claims examiner.

The 1977 act liberalized eligibility and evidence requirements and directed that Labor "shall not require any additional medical or other evidence to be submitted if the evidence on file is sufficient for approval of the claim * * *." In response to the legislation, Labor liberalized its criteria for awarding benefits and used medical or other evidence on file to approve claims.

While additional evidence is gathered to support a claim, no effort is made to reconcile conflicting evidence or rebut the various presumptions allowed under the law by either using negative evidence on file or requiring the claimant to take additional medical tests. This has helped Labor process claims faster, but it has also led to many claims being approved with inconclusive and conflicting medical evidence, as was noted in our July 28, 1980, report to the Congress on SSA's administration of the black lung program "Legislation Allows Black Lung Benefits to be Awarded Without Adequate Evidence of Disability" (HRD-80-81). In our planned review of Labor's implementation of the 1977 amendments, we will determine what impact the liberalized criteria have had on the approval of claims.

Informal hearing process

We recommended that Labor establish criteria on the timeliness of completing the informal hearing process. Since our 1977 report, Labor has established additional time frames for completing this process:

<u>Pre-hearing process</u>	<u>Time frame requirements</u>	
	<u>1977 report</u>	<u>Present</u>
	(days)	
If informal conference cannot be scheduled, forward claim for hearing	-	60
Notice of scheduled conference sent to participants	-	30
Memorandum of conference sent to participants	20	20
Participants reply to the memorandum of conference	10	30

Labor has also established the Branch of Pre-hearing and Review to improve the transition of contested claims from the informal to formal hearing process. This branch is responsible for reviewing all claims that are to appear before the Office of Administrative Law Judges (OALJs) or the Benefits Review Board. To expedite the formal hearings process, the branch assures that the claims are complete, in proper order, and consistent with the law.

A Labor official said that, despite the establishment of the Branch of Pre-hearing and Review, the formal hearing process is now taking longer than we reported in our 1977 report because of a large increase in formally contested claims. OALJ received 169 contested claims in fiscal year 1975 and 879 contested claims in fiscal year 1976; however, a Labor official estimated that OALJ will receive 9,000 to 10,000 contested claims in fiscal year 1980 and 15,000 in fiscal year 1981. This problem will be addressed in our planned review of Labor's implementation of the 1977 amendments.

X-ray re-readings

We recommended that Labor determine the feasibility of having all X-rays re-read so that claimants whose X-rays are initially interpreted as negative for black lung are given every opportunity to qualify for benefits. Labor has implemented this recommendation by requiring X-ray re-readings to determine whether the X-ray was of sufficient quality for determining black lung. Positive re-readings of X-rays showing the disease are used to approve claims. However, the 1977 amendments prevent the use of negative re-readings of X-rays to deny benefits when previously read positive by a qualified reader.

Claimant inquiries and communications
between the national office and the field

We recommended that Labor establish an effective program to respond promptly to claimant inquiries on the status of their claims and to provide for more direct communications between Labor's national office and the field offices after the claim is filed. Labor has taken several actions in response to this recommendation. Labor has established a decentralized organization (see p. 2), with field stations assisting claimants and answering questions about claims. District offices process claims in the field, and field stations respond to claimant inquiries. Special inquiry sections in the national and district offices respond to requests they receive. A group within the special inquiry section handles congressional and public inquiries.

Labor has also developed a computerized black lung information system and placed terminals in each district office. This system provides immediate information on the location and status of claims.

Labor has also acted to provide more direct and effective communication between its national office and districts. Labor recently established a focal point in the national office to respond to all telephone inquiries from the districts requesting policy guidance. Labor also established central receiving points in its national office for all incoming field correspondence to ensure that it is routed promptly to the proper channel.

CONCLUSIONS

Labor has significantly reduced the backlog of claims awaiting initial decision and could eliminate the backlog by late calendar year 1981. Labor has also acted to implement the recommendations in our July 1977 report. To the extent that further actions are needed to completely correct the problems reported, we will address them in our planned review of Labor's implementation of the 1977 Black Lung Benefits Reform Act.

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We are sending copies of this report to the Secretary of Labor; the Director, Office of Management and Budget; and other interested parties.

Sincerely yours,



Gregory J. Ahart
Director